



## Department of Energy

Grand Junction Projects Office  
Post Office Box 2567  
Grand Junction, Colorado 81502-2567

October 25, 1991

Certified No. 25480

Mr. George G. Warnock  
Todilto Exploration and Development Corporation  
311 Washington Street, SE  
Albuquerque, NM 87108

SUBJECT: Mining Lease AT(05-1)-ML-60.8-NM-B-1

Dear Mr. Warnock:

As a result of the recent actions taken by the Environmental Protection Agency in response to a public health advisory issued by the Agency for Toxic Substances and Disease Registry, the Department of Energy (DOE) has been reviewing the various mining leases held by the DOE. As a result of the review completed to date, it has been determined that the performance bond under the subject lease (Lease) does not provide adequate protection for the DOE should you or your company fail to perform the required reclamation activities upon termination of the Lease. Accordingly, pursuant to the authority of Article XV, "Performance Bond," the amount of the performance bond is hereby increased to \$200,000. In determining this amount, consideration has been given to: 1) the character and nature of the reclamation requirements of the Lease; 2) the DOE estimated costs of such reclamation if DOE were required to perform the required reclamation activities; and, 3) your own estimate of reclamation costs.

In addition, the Lease requires you to make certain minimum royalty payments. Specifically, the Lease provides at Article VI (as provided in Amendment A002):

At the beginning of each lease year thereafter, including lease years in the term of any extension of this lease, there shall become due and payable to the Commission a minimum royalty of \$10,000, provided, that, upon a written application by the Lessee showing to the satisfaction of the Contracting Officer that the market for ores from the lands covered by this lease will probably be inadequate to justify operating under the lease during the ensuing lease year, the Contracting Officer in his sole discretion, may by written notice to the Lessee, forgive the payment of the minimum royalty for such lease year .... Such written application shall be submitted to the Contracting Officer not less than thirty (30) calendar days prior to the beginning of the lease year with respect to which it is made. (Emphasis added)

Mr. George G. Warnock

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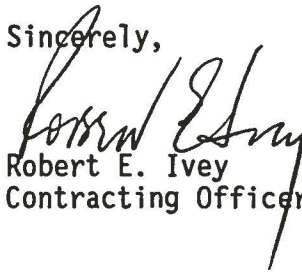
DOE's files show that the last written application made by you for waiver of the minimum royalty was in your letter of May 11, 1987. DOE did not respond to this letter. Thus, while I am still considering whether or not you are liable for the minimum royalty that was due on June 12, 1987, it is clear that you are liable to DOE for minimum royalty payments for all ensuing years. Consequently, on behalf of DOE, I hereby determine that you are liable to DOE in the amount of \$40,000 for unpaid minimum royalties for lease years 1988 through 1991.

Within 30 calendar days of the date of your receipt of this letter, please provide to me a revised performance bond in the total amount of \$200,000 and a cashiers check in the amount of \$40,000. Your failure to comply with either one of these demands may result in the cancellation of the Lease, pursuant to the terms of Article XXIV of the Lease, without further notice to you.

You are further advised that you may be liable for any costs incurred by DOE for reclamation activities that are required pursuant to the terms of the Lease.

If you have any questions please write to the above address or call me at 303/248-6003.

Sincerely,

  
Robert E. Ivey  
Contracting Officer

cc: M. Olsen, DOE-ID, MS-1209  
R. Bornstein, EPA  
W. Weiss, EPA  
C. Freytag, Geotech  
J. Lyle, DOE-ID, MS-1117